

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSH L. ANDERSON,	)	
	)	
Plaintiff	)	
	)	
v.	)	
	)	Civil Action No. 04-135 Erie
LARRY E. KOPKO, RANDY J. ICKERT	)	
and KATIE L. AVENALI,	)	
	)	
Defendants	)	<b>Jury Trial Demanded</b>

**DEFENDANT'S PROPOSED SPECIAL VERDICT SLIP**

Defendant Katie L. Smith, née Katie L. Avenali, respectfully submits the following  
Defendant's Proposed Special Verdict Slip.

**Special Verdict**

1. Do you find that on February 4, 2004 defendant Katie Smith used excessive force  
on plaintiff Josh Anderson in violation of the Eighth Amendment?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 1 is "Yes," go to Question 2. If your answer to Question 1 is  
"No," the jury foreperson must sign this Special Verdict and inform the Clerk that you have  
reached a verdict.

2. Do you find that on February 4, 2004 plaintiff Josh Anderson suffered a physical  
injury as a direct result of the use of excessive force on him by defendant Katie Smith?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 2 is "Yes," go to Question 3. If your answer to Question 3 is  
"No," go to Question 4.

3. What are the total damages suffered by plaintiff Josh Anderson as a result of his having experienced physical pain and mental suffering as a result of the use of excessive force on him by defendant Katie Smith?

Total Damages for Pain and Suffering: \$\_\_\_\_\_.

Go to Question 5.

4. You are directed to return a verdict for plaintiff Josh Anderson and against defendant Katie Smith in the nominal amount of one dollar by entering the words "One Dollar" in answer to this Question 4: \_\_\_\_\_.

Go to Question 5.

5. Do you find that on February 4, 2004 the use of excessive force by the defendant, Katie Smith, on the plaintiff, Josh Anderson, was motivated by evil motive or intent, or that it involved reckless or callous indifference to the right of the plaintiff, Josh Anderson, to be free from the use of excessive force in violation of the Eighth Amendment?

Yes \_\_\_\_\_

No \_\_\_\_\_

If your answer to Question 5 is "Yes," go to Question 6. If your answer to Question 5 is "No," the jury foreperson must sign this Special Verdict and inform the Clerk that you have reached a verdict.

6. Do you find it appropriate to award plaintiff, Josh Anderson, an additional amount as punitive damages to punish defendant, Katie Smith, or deter the defendant and others from similar conduct in the future?

Yes \_\_\_\_\_

No \_\_\_\_\_

If your answer to Question 6 is "Yes, " go to Question 7. If your answer to Question 6 is "No," the jury foreperson must sign this Special Verdict and inform the Clerk that you have reached a verdict.

7. What amount of punitive damages do you find it appropriate to award plaintiff, Josh Anderson, to punish defendant, Katie Smith, or deter the defendant and others from similar conduct in the future?

Total Punitive Damages: \$ \_\_\_\_\_ .

The jury foreperson must sign this Special Verdict and inform the Clerk that you have reached a verdict.

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Jury Foreperson

Respectfully submitted,

/s/ James T. Marnen  
James T. Marnen  
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Katie L. Smith, née Katie L. Avenali

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JOSH L. ANDERSON,

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LARRY E. KOPKO, RANDY J. ICKERT  
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## Defendants

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Civil Action No. 04-135 Erie

## Jury Trial Demanded

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 9th day of August, 2006, a copy of the within document was served on all counsel of record and unrepresented parties in accordance with the applicable rules of court.

/s/ James T. Marnen

James T. Marnen